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10/672,213

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Jean-Philippe Fournier

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12/28/2007

BLAKELY SOKOLOFF TAYLOR & ZAFMAN

1279 OAKMEAD PARKWAY

SUNNYVALE, CA 94085-4040

EXAMINER

BHATTACHARYA, SAM

ART UNIT

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2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/672,213

Applicant(s)

FOURNIER ET AL.

Examiner

Sam Bhattacharya

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 11-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman (US Patent No. 5,594,779) in view of Shaffer et al. (US Patent No. 6,754,335).

Regarding claims 1, 11, Goodman teaches a system for downloading multimedia content to a terminal (see Figure 1, element 2 MAPOD as Mobile Audio Programming Device), characterized in that the downloading is carried out via a mobile telephony network (see Figure 1), the said terminal is being able to be connected to the mobile telephony network, the said system comprising a voice recognition device (see Figure 1, element 14b), a database (see Figure 1, element 18; col. 10, line 25 to 33) connected to the network and containing multimedia files, the terminal being able to transmit a voice request designating one or more files contained in the database emanating from the user to the voice recognition device (col. 14, line 31 to 56).

Goodman fails to teach that the voice recognition device recognizes the received voice request, converts the voice request to a text request, the text request having the same content as the recognized voice request and returns to the terminal one or more possible text requests for confirmation by the user, the terminal returning one of the text requests selected by the user, thereby bringing about the downloading of a multimedia file corresponding to the selected text request from the database to the terminal via the mobile telephony network.

However, in an analogous art, Shaffer discloses a dynamic content delivery system in which a voice recognition device recognizes the received voice request, converts the voice request to a text request, the text request having most probably the same content as the recognized voice request and returns to the terminal one or more possible text requests for confirmation by the user, a terminal returning one of the text requests selected by the user, thereby bringing about the downloading of a multimedia file corresponding to the selected text request from a database to the terminal via the mobile telephony network (col. 3, line 19 – col. 4, line 10). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the system in Goodman by incorporating these features taught in Shaffer for the purpose of providing greater flexibility in the choice of prompts and styles and consuming less processor power.

Regarding claim 2, Goodman further teaches a system, characterized in that the voice recognition device is able to generate and transmit to the terminal a list containing several most probable text requests (col. 14, line 46 to 50).

Regarding claims 3, 15, Goodman teaches a system for downloading multimedia content to a terminal, wherein a voice recognition device is able to generate and transmit to the terminal a list of text requests. However, Goodman does not expressively teach a system, characterized in that the text requests being associated with probabilities of correspondence with the user's request, the text requests of the list of text requests are ranked according to their order of probability. In an analogous art, Shaffer et al. teaches a dynamic content delivery responsive to user requests such as song, video, and the like. Shaffer et al. further teaches a system characterized in that the text requests being associated with probabilities of correspondence with

the user's request, the text requests of the list of text requests are ranked according to their order of probability (col. 16, line 49 to 67 wherein probability is corresponding to weighting scheme).

Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify Goodman to include a system characterized in that the text requests being associated with probabilities of correspondence with the user's request, the text requests of the list of text requests are ranked according to their order of probability such as taught by Shaffer et al. in order to develop a content delivery system that did not require a listener to be at the physical location of the music storage in order to request a song or a video and also allowed the choose the desired song out of a matches list.

Regarding claim 4, Shaffer et al. further teaches a system, characterized in that the text requests are transmitted to the terminal in the form of hypertext links tied with multimedia files contained in the database, the user being able to activate the link corresponding to his request (col. 16, line 55 to 65).

Regarding claim 5, Goodman further teaches a system, characterized in that it comprises means for recording the voice request (col. 11, line 48 to 67).

Regarding claims 6, 12, Goodman further teaches a system, characterized in that the terminal is a mobile terminal having a voice channel and/or a data channel (col. 7, line 32 to 38; col. 8, line 32 to 45; col. 11, line 8 to 18).

Regarding claim 7, Shaffer et al. further teaches a system, characterized in that the terminal includes an Internet browser.

Regarding claims 8, 25, Shaffer et al. further teaches a system, characterized in that it comprises means for activating or deactivating the mode of operation with return of prompt(s) to

the terminal according to the number of matches and predetermined algorithm and: in the case where this mode of operation is activated when there are more than one matches returned, the voice recognition device is able to return one or more prompt(s) to the terminal for the user selection; in the case where this mode of operation is deactivated when there is only one match returned, the voice recognition device is able to transmit an directly to a server for access to the database and putting it the match on the play list to be played at the server according to the play list algorithm.

Regarding claim 13, Shaffer et al. further teaches a process, characterized in that the text requests are returned from the database to the terminal in the form of a text message.

Regarding claim 14, Goodman further teaches a process, characterized in that the text requests are returned from the database to the terminal in the form of a voice message transmitted as a sound file or by audio streaming (col. 14, line 46 to 50).

Regarding claim 16, Shaffer et al. further teaches a process, characterized in that a prompt is selected by positioning a cursor over this prompt then by pressing an enable key of a keypad associated with the terminal.

Regarding claims 17, 18, Shaffer et al. further teaches a process, characterized in that the user selects a prompt by scrolling text requests down to the one whose selection is desired and then by pressing an enable key of a keypad associated with the terminal.

Regarding claim 19, Goodman further teaches a process, characterized in that the user selects a prompt by verbally pronouncing a reference identifying this prompt (col. 14, line 45 to 50).

Regarding claims 21, 23, Goodman further teaches a process, when none of the text requests is selected, the operation of processing the request by the voice recognition is repeated while eliminating the unselected text requests from the list of the expressions and this process is carried out on a new request (col. 14, line 43 to 50; Goodman teaches voice recognition continue to prompt to the user as none of the prompt is being selected by the user and that means that also eliminating the unselected text requests).

Regarding claim 20, Goodman and Shaffer et al. further teaches a process, wherein the mobile terminal is a Personal Digital Assistant (PDA) with a stylus (see Shaffer et al. Figure 1, element 111), but does not teach that the user selects a prompt by positioning a stylus on a touch screen associated with the terminal, at the level of the relevant prompt. Nevertheless, the Examiner takes Official Notice that it is conventionally and commonly well known in the art that a PDA has a stylus (or pen) used to make a prompt, selection, choice from a plurality of text requests by positioning a stylus on a touch screen of the PDA, at the level of the relevant prompt. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to have used a stylus to select a prompt out from a plurality of prompt for the same advantages of making a selection, making a choice.

Regarding claim 22, Goodman teaches a process, characterized the new processing operation is carried out on the basis of initial request (col. 14, line 33 to 56). However, Goodman does not teach a process, characterized in having recorded the voice request beforehand. In an analogous art, Shaffer et al. further teaches a process, characterized in that having recorded the voice request beforehand, this new processing operation is carried out on the basis of the initial recorded request (col. 13, line 60 to 64). Therefore, it would have been obvious to one ordinary

skill in the art at the time of the invention was made to modify Goodman to include having recorded the voice request beforehand in order to provide ability to enhance the service's personalization level.

3. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman (US Patent No. 5,594,779) in view of Shaffer et al. and further in view of Pyhalammi (US Patent No. 6,996,393).

Regarding claims 9 and 10, Goodman and Shaffer et al. teaches a system that allows to downloading multimedia materials to a mobile station. Goodman and Shaffer et al. further teaches a system comprising means for activating and deactivating the mode of operation with return of text requests to the terminal. However, Goodman and Shaffer does not expressively teach a system comprising means for measuring a parameter relating to the quality of the network, and the user's actuation as functions for activating or deactivating the mode of operation with return.

In an analogous art, Pyhalammi teaches a mobile content delivery system that optimizes the delivery of especially bandwidth -consuming content in a way that best utilizes the free capacity in the network. Pyhalammi further teaches a system comprising means for measuring the parameter relating to the quality of the network as well as utilizing user's manipulation to activating or deactivating the mode of operation with return in regarding to delivery content of multimedia materials to a mobile device (col. 1, line 48 to col. 2, line 22). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention to modify Goodman and Shaffer et al. system and means for activating and deactivating the mode of operation with

return of text requests to the terminal to include the usage of parameter relating to the network and user actuation such as taught by Pyhalammi in order to allow data traffic on the wireless network to be more evenly distributed without having to upgrade the wireless network component. Therefore, it is cheaper to implement the system with all the functions without scarifying the operator high-margin business.

4. Claims 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman (US Patent No. 5,594,779) in view of Shaffer et al. and further in view of Martin (US Patent No. 6,345,250).

Regarding claim 24, Goodman and Shaffer et al. teaches a process to repeat the operation of processing when none of the prompt is selected. However, Goodman and Shaffer et al. does not teach a process, wherein the new request is formulated in text or graphic mode when none of the prompt is selected.

In an analogous art, Martin teaches a developing voice response application from pre-recorded voice and stored text-to-speech text requests. Martin further teaches a process, wherein the new request is formulated in text or graphic mode when none of the prompt is selected (Figure 4; see Abstract, col. 5, line 33 to 47). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify Goodman and Shaffer et al. to include a process, wherein the new request is formulated in text or graphic mode when none of the prompt is selected such as taught by Martin to provide a faster and more programmer friendly environment for the development of interactive voice response applications.

Furthermore, easing the burden on the system by reducing significant costs of recording and storing infrequently used voice phases or words.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Bhattacharya whose telephone number is (571) 272-7917. The examiner can normally be reached on Weekdays, 9-6, with first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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